

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHAUN BRYANT,

Petitioner,

v.

WARDEN, FRANKLIN COUNTY
CORRECTIONS CENTER

Respondent.

CASE NO. 2:17-CV-00335
JUDGE JAMES L. GRAHAM
Magistrate Judge Elizabeth P. Deavers

OPINION AND ORDER

On December 4, 2017, the Magistrate Judge issued a *Report and Recommendation* (ECF No. 10) recommending that this habeas action be dismissed for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Fed.R.Civ.P. 41(b). Although the parties were advised of the right to object to the Magistrate Judge's *Report and Recommendation*, and of the consequences of failing to do so, no objections have been filed. The *Report and Recommendation* (ECF No. 10) is therefore, adopted and affirmed. This action is dismissed without prejudice.

Pursuant to 28 U.S.C. § 2253(c)(1)(B), the Court must also assess whether to issue a certificate of appealability. Rule 11 of the Rules Governing Section 2255 Proceedings for the United States District Courts states that “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Petitioner has waived, however, the right to file an appeal by failing to file objections to the Magistrate Judge's recommendations. *See Thomas v. Arn*, 474 U.S. 140, 147 (1985); *United States v. Walters*, 638

F. 2d 947, 950 (6th Cir. 1981). The Court therefore declines to issue a certificate of appealability.

It is so ordered.

Date: December 20, 2017

s/James L. Graham
JAMES L. GRAHAM
United States District Judge